



600 B Street, Suite 1900
San Diego, CA 92101
619.525.3990 phone
619.525.3991 fax
www.robbsinarroyo.com

June 16, 2014

VIA ECF

Honorable Loretta A. Preska
Chief Judge, U.S. District Court
Southern District of New York
500 Pearl Street, Room 2220
New York, NY 10007

**Re: *In re Digital Music Antitrust Litigation*, MDL Docket No. 06-md-01780 (LAP)
Pre-Motion Letter re: Proposed Motion to Withdraw Plaintiff Putman**

Dear Judge Preska:

I respectfully submit this letter on behalf of Plaintiff Matthew Putman ("Putman") to request a pre-motion conference for plaintiff's anticipated Motion to Withdraw Plaintiff Matthew Putman pursuant to your Honor's Individual Practice Rule 2.A regarding pre-motion conferences.

I. INTRODUCTION

Pursuant to Rule 21 of the Federal Rules of Civil Procedure, plaintiffs respectfully seek leave to remove Putman, who had previously been named in the Conformed Third Consolidated Amended Complaint ("Complaint"), from the above action.

II. ARGUMENT

The withdrawal of Plaintiff Putman does not affect in any material way this action and does not cause prejudice to the defendants or the Court. The remaining plaintiffs will continue to pursue the claims under the above caption and the current posture of the action will not be affected.

Pursuant to the Court's order on May 5, 2014, plaintiffs proposed motion includes an affidavit from Putman that "explain[s] the reasons that ... [he] wishes to be removed in order to demonstrate good cause for [his] removal." The detailed information contained in his affidavit includes that he has significant work conflicts consisting of having to report to a new superior, having to complete a large project that has just started, and company concerns regarding department structure; it also details his deteriorating health, including a recent diagnosis of a medical condition that results in palpitations, chest discomfort, and anxiety (which are aggravated by his continued participation in this litigation); and concerns about family stability given the other reasons noted here. Plaintiff submits that these reasons constitute good cause for removal.

In re Digital Music Antitrust Litigation

June 16, 2014

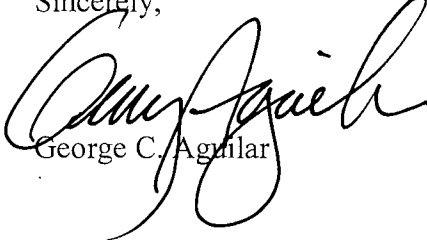
Page 2

Rule 21 affords broad discretion to the court in adding and dropping parties; either may be done at any time and under any terms or conditions imposed by the court. *Fair Hous. Dev. Fund Corp. v. Burke*, 55 F.R.D. 414, 419 (E.D.N.Y. 1972). Like Rule 15, Rule 21 has the "same standard of liberality." *FTD Corp. v. Banker's Trust Co.*, 954 F. Supp. 106, 109 (S.D.N.Y. 1997) (citing *Fair Hous. Dev. Fund Corp. v. Burke*, 55 F.R.D. 414, 419 (E.D.N.Y. 1972) and *Expoconsul Int'l, Inc. v. A/E Sys., Inc.*, 145 F.R.D. 336, 337 n.4 (S.D.N.Y. 1993)) (Preska, J.); see also *Duling v. Gristede's Operating Corp.*, 265 F.R.D. 91, 96-97 (S.D.N.Y. 2010). Removing certain previously named plaintiffs is also proper. See, e.g., *First Ebenezer Baptist Church v. Consol. Edison Co.*, 974 F. Supp. 283, 286 n.1 (S.D.N.Y. 1997) (granting request to remove named plaintiff from complaint).

III. CONCLUSION

For the foregoing reason, plaintiffs respectfully seek leave to remove Putman as a named plaintiff.

Sincerely,



George C. Aguilar

cc: All Counsel of Record (via ECF)

CERTIFICATE OF SERVICE

I hereby certify that on June 16, 2014, I authorized the electronic filing of the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the e-mail addresses denoted on the attached Electronic Mail Notice List. I hereby also certify that I caused to be mailed the foregoing document or paper via the U.S. Postal Service to the non-CM/ECF participants as indicated on the attached Manual Notice List.

I certify under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed June 16, 2014.

s/ George C. Aguilar
GEORGE C. AGUILAR

Mailing Information for a Case 1:06-md-01780-LAP

Electronic Mail Notice List

The following are those who are currently on the list to receive e-mail notices for this case.

- **George C. Aguilar**
gaguilar@robbinsarroyo.com,rsalazar@robbinsarroyo.com,notice@robbinsarroyo.com
- **Helena Almeida**
halmeida@stblaw.com
- **Francis J. Balint , Jr**
fbalint@bffb.com
- **Peter T Barbur**
pbarbur@cravath.com,dmacina@cravath.com
- **Brian Joseph Barry**
bribarry1@yahoo.com
- **Alexandra S. Bernay**
xanb@rgrdlaw.com
- **W. Joseph Bruckner**
wjbruckner@locklaw.com,amhorningnygren@locklaw.com,hnpotteiger@locklaw.com,dlwells@locklaw.com,emsipe@locklaw.com,sljuell@locklaw.com
- **Christopher M. Burke**
cburke@scott-scott.com,tturner@scott-scott.com,wnoss@scott-scott.com,edewan@scott-scott.com,kanderson@scott-scott.com,efile@scott-scott.com
- **Christopher John Caputo**
ccaputo@stblaw.com
- **Matthew Stephen Carrico**
mcarrico@mayerbrown.com
- **Daniel D'Angelo**
ddangelo@gilmanpastor.com,dpastor@gilmanpastor.com,enatale@gilmanpastor.com
- **Merrill G Davidoff**
mdavidoff@bm.net,sleo@bm.net
- **Lynn M Engel**
lynn.marie.engel@gmail.com
- **Craig M. Essenmacher**
craigessenmacher@yahoo.com
- **Dale J. Giali**
dgiali@mayerbrown.com
- **Daniel Charles Girard**
dcg@girardgibbs.com,mce@girardgibbs.com,amv@girardgibbs.com
- **Jayne Arnold Goldstein**
jagoldstein@pomlaw.com
- **Charles Pearsall Goodwin**
cgoodwin@bm.net
- **Jessica Carolyn Grannis**
jgrannis@steyerlaw.com
- **Joshua Paul Groban**
joshua.groban@mto.com

- **Terry Gross**
terry@gba-law.com,adam@gba-law.com,joann@gba-law.com
- **Daniel E. Gustafson**
dgustafson@gustafsongluek.com
- **Blake Muir Harper**
bmh@hulethharper.com,anita@hulethharper.com
- **Wendy J Harrison**
wharrison@bffb.com
- **Daniel C. Hedlund**
dhedlund@gustafsongluek.com
- **Derek Greenfield Howard**
dhoward@murrayhowardlaw.com
- **Gary Steven Jacobson**
gsjacobson@shllp.com
- **Edward David Johnson**
wjohnson@mayerbrown.com,pdocket@mayerbrown.com,kneale@mayerbrown.com,mkarczewski@mayerbrown.com
- **Angelique Kaounis**
akaounis@gibsondunn.com,mballar@gibsondunn.com
- **Joseph Kattan**
jkattan@gibsondunn.com,aarias@gibsondunn.com
- **Kelly M. Klaus**
kelly.klaus@mto.com,Julie.Lunsford@mto.com
- **Esther L. Klisura**
eklisura@sherleff.com
- **Mark Leland Knutson**
mlk@classactionlaw.com
- **Bryan Matthew Kreft**
bkreft@steyerlaw.com
- **Chet Alan Kronenberg**
ckronenberg@stblaw.com,managingclerk@stblaw.com
- **Susan Gilah Kupfer**
skupfer@glancylaw.com,info@glancylaw.com,sfreception@glancylaw.com
- **Melinda Eades Lemoine**
melinda.lemoine@mto.com,Seana.Cuevas@mto.com
- **David Howard Leventhal**
david@dhllawfirm.com
- **Richard A. Lockridge**
ralockridge@locklaw.com,sljuell@locklaw.com
- **Kenneth Richard Logan**
klogan@stblaw.com,managingclerk@stblaw.com
- **Ryan Eric Long**
rlong@sanderslong.com
- **Christopher Lovell**
clovell@shllp.com,lshscammer@shllp.com
- **D. Scott Macrae**
smacrae@bamlawlj.com

- **Carmen A. Medici**
cmedici@rgrdlaw.com
- **Edward W. Millstein**
tmillstein@bm.net
- **Manfred P. Muecke**
mmuecke@bffb.com,paquilino@bffb.com,rcreech@bffb.com
- **Michael James Nicoud**
mnicoud@robbinsarroyo.com
- **Eamon O'Kelly**
olelly.eamon@arentfox.com,courtalert@dl.com
- **Glenn D. Pomerantz**
glenn.pomerantz@mto.com
- **Elizabeth Cheryl Pritzker**
ecp@pritzker-law.com
- **Merrick S. Rayle**
msrayle@sbcglobal.net
- **Tracy Diana Rezvani**
trezvani@finkelsteinthompson.com,mpunzalan@finkelsteinthompson.com
- **Brian James Robbins**
notice@robbinsarroyo.com,
- **Robert M. Rothman**
rrothman@rgrdlaw.com,e_file_ny@rgrdlaw.com,e_file_sd@rgrdlaw.com
- **Devin Farrell Ryan**
dryan@stblaw.com
- **Guido Saveri**
guido@saveri.com
- **Richard Alexander Saveri**
rick@saveri.com
- **Imtiaz A. Siddiqui**
isiddiqui@cpmlegal.com,jhamilton@cpmlegal.com,lconcepcion@cpmlegal.com
- **Bruce Lee Simon**
bsimon@pswlaw.com,mpearson@pswlaw.com,cpearson@pswlaw.com,yberry@pswlaw.com,mwilliams@pswlaw.com,grevor@pswlaw.com
- **Allan Steyer**
asteyer@steyerlaw.com,lrorem@steyerlaw.com
- **Ralph M. Stone**
rstone@lawssb.com
- **Bonny E. Sweeney**
bonnys@rgrdlaw.com,slandry@rgrdlaw.com,e_file_sd@rgrdlaw.com,ckopko@rgrdlaw.com
- **Molly A Terwilliger**
mollyt@summitlaw.com,kathyw@summitlaw.com
- **Douglas G. Thompson**
dthompson@finkelsteinthompson.com
- **Michael Orth Ware**
mware@mayerbrown.com,jmarsala@mayerbrown.com
- **Joseph Franklin Wayland**
jwayland@stblaw.com,managingclerk@stblaw.com

- **Thomas Wilhelm**
twilhelm@lerachlaw.com
- **Georgia K. Winston**
gwinston@gibsondunn.com,aarias@gibsondunn.com
- **Alan M. Wiseman**
awiseman@cov.com,tisaacson@cov.com,abass@cov.com
- **Jonathan K. Youngwood**
jyoungwood@stblaw.com,managingclerk@stblaw.com
- **Scott Justin Yundt**
syundt@mandhllp.com,eklisura@comcast.net,brucelsimon@comcast.net,gmurray@mandhllp.com,dhoward@mandhllp.com,aarnall@mandhllp.com

Manual Notice List

The following is the list of attorneys who are **not** on the list to receive e-mail notices for this case (who therefore require manual noticing). You may wish to use your mouse to select and copy this list into your word processing program in order to create notices or labels for these recipients.

Monique **Alonso**
Gross & Belsky LLP
180 Montgomery Street, Ste 2200
San Francisco, CA 94104

Kathleen **Balderrama**
Mayer Brown Rowe and Maw
350 South Grand Avenue
Suite 2500
Los Angeles, CA 90071

Adam **C. Belsky**
Gross & Belsky LLP
180 Montgomery Street, Ste 2200
San Francisco, CA 94104

Gregory **A. Cummings** , Jr
Morgan Lewis & Bockius
Spear Tower
1 Market Plaza, 23rd Floor
San Francisco, CA 94104

Daniel **M. Flores**
Gibson, Dunn & Crutcher, LLP (CA)
1881 Page Mill Road
Palo Alto, CA 94304

Stephen **M. Garcia**
The Garcia Law Firm
One World Trade Center Suite 1950
Long Beach, CA 90831

Mark **C. Gardy**
440 Sylvan Avenue
Suite 110
Englewood Cliffs, NJ 07632

Bridget **F. Gramme**
Hulett Harper Stewart
550 West C Street
Suite 1600
San Diego, CA 92101

Jason **S. Hartley**
Ross, Dixon & Bell, L.L.P.
550 West "B" Street
Suite 400
San Diego, CA 92101-3538

Sarina **M. Hinson**
The Garcia Law Firm
One World Trade Center Suite 1950
Long Beach, CA 90831

Kathryn Elizabeth Kelly
,

Sheri **L. Kelly**
Girard Gibbs LLP
601 California Street, Ste. 1400
San Francisco, CA 94108

Sylvie **K. Kern**
Glancy, Binkow & Goldberg
455 Market Street
Suite 1810
San Francisco, CA 94105

R. **Reid Lebeau**
Lockridge Grindal Nauen PLLP
100 Washington Avenue South, Suite 2200
Minneapolis, MN 55401

Barbara **L. Lyons**
Cotchett PitreSimon & McCarthy
San Francisco Airport Office Center
840 Malcolm Road, Suite 200
Burlingame, CA 94010

Gilmur **R. Murray**
Murray & Howard, LLP
436 14th Street
Suite 1413
Oakland, CA 94612

James **N. Penrod**
Morgan Lewis & Bockius
Spear Tower
1 Market Plaza, 23rd Floor
San Francisco, CA 94104

Josh **Piovia-Scott**
Law Offices of Randy R. Renick
128 North Fair Oaks Avenue
Pasadena, CA 91103

Randy **R. Renick**
Law Offices of Randy Renick
128 North Fair Oaks Avenue
Suite 204
Pasadena, CA 91103

Benjamin **K. Riley**
Howrey LLP
525 Market Street
Suite 3600
San Francisco, CA 94105

Mark **C. Schechter**
Antitrust Division U.S. Department of Justice
555 4th Street, N.W.
Washington, DC, 20001

Dennis **Stewart**
Hulett Harper Stewart LLP
550 West C Street, Ste. 1600
San Diego, CA 92101

Sarah **Wetzstein**
Gibson, Dunn & Crutcher, LLP (LA)
333 South Grand Avenue
Los Angeles, CA 90071

Cadio **Zirpoli**
Saveri & Saveri Inc.
111 Pine Street
Suite 1700
San Francisco, CA 94111